

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

CORNELIUS MINOR,

Plaintiff,

v.

TORRENCE AKINS, et al.,

Defendants.

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No. 1:19-cv-00059-JMB

MEMORANDUM AND ORDER

This matter comes before the Court on the motion of plaintiff Cornelius Minor for leave to commence this civil action without prepayment of the required filing fee. (Docket No. 6). Having reviewed the motion and the financial information submitted in support, the Court has determined that plaintiff lacks sufficient funds to pay the entire filing fee, and will assess an initial partial filing fee of \$15.08. *See* 28 U.S.C. § 1915(b)(1). Additionally, the Court will deny plaintiff's motion to amend by interlineation.

Background

Plaintiff is a pro se litigant currently incarcerated at the Pemiscot County Jail in Caruthersville, Missouri. On April 15, 2019, he filed a document with the Court that was construed as a civil rights complaint pursuant to 42 U.S.C. § 1983. (Docket No. 1). The complaint was not on a Court form. Plaintiff subsequently sent a letter to the Court in which he sought to correct defendant's name. (Docket No. 3).

On May 1, 2019, the Court issued an order directing plaintiff to file an amended complaint on a Court-provided form. (Docket No. 4). Plaintiff was further ordered to either submit a motion for leave to proceed to proceed in forma pauperis or pay the filing fee.

Plaintiff complied by filing an amended complaint on May 15, 2019. (Docket No. 5). He also filed a motion for leave to proceed in forma pauperis, along with a certified inmate account statement.

On July 11, 2019, plaintiff sent a letter to the Court that has been construed as a motion to amend his complaint by interlineation. (Docket No. 9). In the letter, plaintiff states that he “would like to make some changes to this case.” Specifically, he seeks to “release” defendant Torrence Akins from all charges while holding defendant Pemiscot County Jail as the sole responsible party. Plaintiff has not provided a proposed amended complaint.

28 U.S.C. § 1915(b)(1)

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner’s account, or (2) the average monthly balance in the prisoner’s account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of the Court each time the amount in the prisoner’s account exceeds \$10.00, until the filing fee is fully paid. *Id.*

In support of the instant motion, plaintiff submitted a certified inmate account statement. (Docket No. 7). The certified inmate account statement shows an average monthly deposit of \$75.38. The Court will therefore assess an initial partial filing fee of \$15.08, which is 20 percent of plaintiff’s average monthly deposit.

Motion to Amend by Interlineation

As noted above, plaintiff has sent a letter to the Court that has been construed as a motion to amend by interlineation. The Court does not allow amendments to pleadings by supplementation or interlineation. *Popoalii v. Corr. Med. Servs.*, 512 F.3d 488, 497 (8th Cir. 2008) (holding “that granting leave to amend a complaint where the plaintiff has not submitted a proposed amendment is inappropriate”). As such, plaintiff’s motion to amend must be denied at this time. However, the Court will direct the Clerk of Court to send to plaintiff a prisoner civil rights complaint form. If plaintiff desires to file a second amended complaint, he should fill out the form and return it to the Court along with a motion to amend. He will be given thirty days in which to do so.

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion for leave to proceed in forma pauperis (Docket No. 6) is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff must pay an initial partial filing fee of \$15.08 within **thirty (30)** days of the date of this order. Plaintiff is instructed to make his remittance payable to “Clerk, United States District Court,” and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) the statement that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that plaintiff’s motion to amend his complaint by interlineation (Docket No. 9) is **DENIED**.

IT IS FURTHER ORDERED that the Clerk of Court shall send to plaintiff a copy of the Court’s prisoner civil rights complaint form.

IT IS FURTHER ORDERED that plaintiff shall have **thirty (30)** days from the date of this order in which to file his amended complaint on the Court-provided form, along with a motion to amend.

Dated this 28th day of October, 2019.

/s/ *John M. Bodenhausen*
JOHN M. BODENHAUSEN
UNITED STATES MAGISTRATE JUDGE